

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

JADE WILCOX, ON BEHALF OF) CASE NO. 2:17-CV-275-RMP
HERSELF, AND ALL OTHERS)
SIMILARLY SITUATED,) RELATED TO CASE
) NO. 2:17-CV-00122-RMP
)
PLAINTIFFS,) PLAINTIFF'S MOTION FOR
VS.) CLASS CERTIFICATION
)
SWAPP LAW, PLLC, DBA CRAIG)
SWAPP AND ASSOCIATES; AND)
JAMES CRAIG SWAPP,) WITHOUT ORAL ARGUMENT
INDIVIDUALLY,) November 6, 2018
)
DEFENDANTS.)
)

TABLE OF CONTENTS

1		
2		
3	Introduction	1
4	Background Facts	1
5	I. Officers Prepared Collision Reports Using Similar Procedures	1
6	II. Defendants Purchased Thousands of Collision Reports	4
7	III. Plaintiff's Two Car Accidents.	5
8	Argument	6
9	I. The Class is Sufficiently and Properly Defined	7
10	II. The Requirements of Rule 23(a) Are Satisfied.....	8
11	A. Joinder of the Class is Impracticable.....	8
12	B. There are Common Questions of Law and Fact.....	8
13	C. Plaintiff's Claims Are Typical of those of the Class.....	11
14	D. Plaintiff Will Fairly and Adequately Represent the Class	12
15	1. There Are No Conflicts Among the Class.....	12
16	2. Plaintiff Will Vigorously Represent the Class.....	13
17	3. Plaintiff's Counsel are More Than Adequate.	14
18	III. The Requirements of Rule 23(b)(3) Are Satisfied.	15
19	A. The Predominance Requirement is Met.....	15
20	B. The Superiority Requirement is Met.....	18
21	Conclusion	20

TABLE OF AUTHORITIES

Page(s)

Cases

<i>Agne v. Papa John's Int'l, Inc.</i> , 286 F.R.D. 559 (W.D. Wash. 2012).....	17
<i>Allen v. Hyland's Inc.</i> , 300 F.R.D. 643 (C.D. Cal. 2014)	13, 14
<i>Amchem Prods., Inc. v. Windsor</i> , 521 U.S. 591 (1997)	6
<i>Amgen Inc. v. Connecticut Ret. Plans & Tr. Funds</i> , 568 U.S. 455 (2013)	6, 15, 16
<i>Briseno v. ConAgra Foods, Inc.</i> , 844 F.3d 1121 (9th Cir. 2017)	7, 19
<i>Buchanan v. Tata Consultancy Servs., Ltd.</i> , No. 15-CV-01696-YGR, 2017 WL 6611653 (N.D. Cal. Dec. 27, 2017)	7
<i>Cabiness v. Educ. Fin. Sols., LLC</i> , 16-CV-01109-JST, 2018 WL 3108991 (N.D. Cal. June 25, 2018)	16
<i>Connor v. Automated Accounts, Inc.</i> , 202 F.R.D. 265 (E.D. Wash. 2001)	16
<i>Erickson v. Elliot Bay Adjustment Co., Inc.</i> , C16-0391JLR, 2017 WL 1179435 (W.D. Wash. Mar. 29, 2017)	7, 19
<i>Halliburton Co. v. Erica P. John Fund, Inc.</i> , 134 S. Ct. 2398 (2014)	18
<i>Haney v. Recall Ctr.</i> , 282 F.R.D. 436 (W.D. Ark. 2012)	7, 9
<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011 (9th Cir. 1998)	12, 15

1	<i>Hanon v. Dataproducts Corp.</i> ,	
2	976 F.2d 497 (9th Cir. 1992)	11
3	<i>Hernandez v. Cnty. of Monterey</i> ,	
4	305 F.R.D. 132 (N.D. Cal. 2015)	7
5	<i>Just Film, Inc. v. Buono</i> ,	
6	847 F.3d 1108 (9th Cir. 2017)	15
7	<i>Kamar v. Radio Shack Corp.</i> ,	
8	254 F.R.D. 387 (C.D. Cal. 2008), <i>aff'd</i> , 375 F. App'x 734 (9th	
9	Cir. 2010)	16
10	<i>Kurihara v. Best Buy Co., Inc.</i> ,	
11	No. C 06-01884 MHP, 2007 WL 2501698 (N.D. Cal. 2007).....	16
12	<i>Maracich v. Spears</i> ,	
13	570 U.S. 48 (2013).....	11, 12
14	<i>Messner v. Northshore U. HealthSystem</i> ,	
15	669 F.3d 802 (7th Cir. 2012)	16
16	<i>Moeller v. Taco Bell Corp.</i> ,	
17	220 F.R.D. 604 (N.D. Cal. 2004) <i>amended in part</i> , 2012 WL	
18	3070863 (N.D. Cal. July 26, 2012)	13
19	<i>Moore v. Ulta Salon, Cosmetics & Fragrance, Inc.</i> ,	
20	311 F.R.D. 590 (C.D. Cal. 2015)	16
21	<i>Orvis v. Spokane Cty.</i> ,	
22	281 F.R.D. 469 (E.D. Wash. 2012) (Peterson, J.).....	13
23	<i>Parsons v. Ryan</i> ,	
24	754 F.3d 657 (9th Cir. 2014)	11
25	<i>Pichler v. UNITE</i> ,	
26	228 F.R.D. 230 (E.D. Pa. 2005)	6, 9
	<i>Roberts v. Source for Pub. Data</i> ,	
	No. 2:08-CV-04167-NKL, 2009 WL 3837502 (W.D. Mo. Nov.	
	17, 2009).....	9, 18

1	<i>Rodriguez v. Hayes</i> ,	
2	591 F.3d 1105 (9th Cir. 2009)	11, 12
3	<i>Sandoval v. Rizzuti Farms, Ltd.</i> ,	
4	CV-07-3076-EFS, 2008 WL 4530525 (E.D. Wash. Oct. 6,	
5	2008).....	16
6	<i>Saucedo v. NW Mgmt. & Realty Servs., Inc.</i> ,	
7	290 F.R.D. 671 (E.D. Wash. 2013).....	8
8	<i>Shady Grove Orthopedic Assocs. v. Allstate Ins. Co.</i> ,	
9	559 U.S. 393 (2010)	6
10	<i>Staton v. Boeing Co.</i> ,	
11	327 F.3d 938 (9th Cir. 2003)	12
12	<i>Stockwell v. City & County of San Francisco</i> ,	
13	749 F.3d 1107 (9th Cir. 2014)	6
14	<i>Torres v. Mercer Canyons Inc.</i> ,	
15	835 F.3d 1125 (9th Cir. 2016)	8, 18
16	<i>Torres v. Mercer Canyons, Inc.</i> ,	
17	No. 1:14-CV-03032-SAB, 2015 WL 1641519 (E.D. Wash.	
18	Apr. 8, 2015)	11
19	<i>Tyson Foods, Inc. v. Bouaphakeo</i> ,	
20	136 S. Ct. 1036 (2016)	15, 16
21	<i>Vaquero v. Ashley Furniture Indus., Inc.</i> ,	
22	824 F.3d 1150 (9th Cir. 2016)	8
23	<i>Wang v. Chinese Daily News, Inc.</i> ,	
24	737 F.3d 538 (9th Cir. 2013)	8
25	<i>Waste Mgmt. Holdings, Inc. v. Mowbray</i> ,	
26	208 F.3d 288 (1st Cir. 2000).....	18
	<i>Wilcox v. Batiste</i> ,	
	17-cv-00122-RMP (E.D. Wash.).....	13
	<i>Wolin v. Jaguar Land Rover N.A., LLC</i> ,	
	617 F.3d 1168 (9th Cir. 2010)	18, 19

Statutes

18 U.S.C. § 2721	<i>passim</i>
18 U.S.C. § 2721(b)(4).....	12
18 U.S.C. § 2724(a).....	9
18 U.S.C. § 2725(1).....	17
18 U.S.C. § 2725(3).....	2
RCW 46.52.080	4

Other Authorities

Fed. R. Civ. P. 23	1, 6, 13
Fed. R. Civ. P. 23(a)	6, 8, 20
Fed. R. Civ. P. 23(a)(1).....	8
Fed. R. Civ. P. 23(a)(2).....	8
Fed. R. Civ. P. 23(a)(3).....	11
Fed. R. Civ. P. 23(a)(4).....	12, 14
Fed. R. Civ. P. 23(b)	6
Fed. R. Civ. P. 23(b)(3).....	15, 16, 18, 19
Fed. R. Civ. P. 23(g)	14
Fed. R. Civ. P. 23(g)(1)(A)	14

INDEX OF EXHIBITS

Declaration of Jade Wilcox with the following attachments:

Exhibit 1: Letter and Booklet from Craig Swapp & Associates to Jade Wilcox, bates stamped Wilcox000001-Wilcox000030

Exhibit 2: Duties of Class Representative signed by Jade Wilcox

Declaration of Thomas Kirchofer with the following attachments:

Exhibit 3: Excerpts from the Rule 30(b)(6) Deposition of the Washington State Patrol by Kateri Candee ("Candee Dep.")

Exhibit 4: Excerpts from the Rule 30(b)(6) Deposition of the Washington State Patrol by Patrick Gibbs ("Gibbs Dep.")

Exhibit 5: Excerpts from the Rule 30(b)(6) Deposition of the Washington State Patrol by Tania Johnson ("Johnson Dep.")

Exhibit 6: Excerpts from the Rule 30(b)(6) Deposition of the Washington State Patrol by Ian Morhous ("Morhous Dep.")

Exhibit 7: Excerpts from the Rule 30(b)(6) Deposition of the Washington Criminal Justice Training Commission by Michael McGee ("McGee Dep.")

Exhibit 8: Excerpts from the Rule 30(b)(6) Deposition of the Washington Department of Licensing by Carla Weaver-Groseclose ("Weaver Dep.")

Exhibit 9: Excerpts from the Deposition of Jade Wilcox ("Wilcox Dep.")

Exhibit 10: Defendants' Responses to Plaintiff's First Set of Requests for Admissions dated March 5, 2018

Exhibit 11: Defendants' Responses to Plaintiff's First Set of Interrogatories and Second Supplemental Responses dated July 17, 2018

1 Exhibit 12: Responses to Plaintiff's First Set of Interrogatories and
2 Requests for Production by John Batiste with Objections,
3 Answers and Responses, the Batiste Action

4 Exhibit 13: Police Traffic Collision Report Instructions Manual (Exhibit 18 of
5 the Rule 30(b)(6) Deposition of the Washington State Patrol),
6 bates stamped Plaintiff006918-Plaintiff007033

7 Exhibit 14: Email from collisionrecords@wsp.wa.gov to Marissa Ibarra
8 dated July 13, 2016, (Exhibit 5 of the Rule 30(b)(6) Deposition
9 of the Washington State Patrol), bates stamped
10 eSWAPP_001767

11 Exhibit 15: Second Email from collisionrecords@wsp.wa.gov to Marissa
12 Ibarra dated July 13, 2016 (Exhibit 6 of the Rule 30(b)(6)
13 Deposition of the Washington State Patrol), bates stamped
14 eSWAPP_001765

15 Exhibit 16: Police Traffic Collision Report dated August 1, 2015, bates
16 stamped Swapp_022250-Swapp_022254

17 Exhibit 17: Police Traffic Collision Report dated July 9, 2016 (Exhibit 2 of
18 the Rule 30(b)(6) Deposition of the Washington State Patrol),
19 bates stamped Swapp_028379-Swapp_028384
20

21 **Declaration of R. Joseph Barton**

22
23 **Declaration of Thomas G. Jarrard**
24
25
26

1 **Declaration of Pete Cozzitorto**, (originally filed as Dkt. No. 22-3 in *Wilcox*
2 *v. Batiste*, Case No. 17-cv-00122-RMP (E.D. Wash.))
3 (“Cozzitorto Decl.”)
4

5 **Second Declaration of Patrick Gibbs**, (originally filed as Dkt. No. 22-1 in
6 *Wilcox v. Batiste*, Case No. 17-cv-00122-RMP (E.D. Wash.))
7 (“Gibbs Decl.”)
8

9 **Declaration of Tania Johnson**, (originally filed as Dkt. No. 5-4 in *Wilcox v.*
10 *Batiste*, Case No. 17-cv-00122-RMP (E.D. Wash.)) (“Johnson
11 Decl.”)
12

13 **Declaration of Carla Weaver**, (originally filed as Dkt. No. 22-2 in *Wilcox v.*
14 *Batiste*, Case No. 17-cv-00122-RMP (E.D. Wash.)) (“Weaver
15 Decl.”)
16
17
18
19
20
21
22
23
24
25
26

INTRODUCTION

This case concerns bulk purchases of Police Traffic Collision Reports (“PTCRs”) by Defendants James Craig Swapp, and his law firm, Swapp Law, PLLC (“Swapp”) from the Washington State Patrol (“WSP”) to extract drivers’ personal information for marketing. The Complaint alleges doing so violated the Driver's Privacy Protection Act (“DPPA”) 18 U.S.C. § 2721 *et seq.* As Defendants bought thousands of PTCRs as part of a standard scheme, Rule 23 is satisfied, and the following Class should be certified:

All drivers identified in Police Traffic Collision Reports whose Personal Information, as defined by the DPPA, was derived from a Department of Licensing record (e.g. license, registration or database) and the Report was obtained by the Swapp Law Firm (d/b/a Craig Swapp & Associates) or Mr. Swapp from the Washington State Patrol between September 1, 2013 and June 23, 2017.

Excluded from the Class are (a) current and former clients of Defendants (b) individuals identified on the same PTCRs as Defendants’ clients, (c) individuals who provided written consent to Defendants for the disclosure of their Personal Information (as defined by the DPPA) prior to Defendants obtaining their personal information, (d) employees (and attorneys) of the Defendants and members of their immediate families, and (d) the Judge to whom this action is assigned and anyone working in the Judge’s chambers and the members of their families.

BACKGROUND FACTS

I. Officers Prepared Collision Reports Using Similar Procedures

Law enforcement officers across Washington State use standard PTCR forms to document vehicle accidents. Gibbs Dep. at 8:9-16; Morhous Dep. at 23:5-8. Officers use standard procedures in preparing PTCRs.

1 Morhous Dep. at 24:1-8. Nearly all PTCRs are prepared with SECTOR, a
2 program installed on police car computers and used by 96% of Washington
3 law enforcement agencies. Johnson Dec. ¶ 3; Johnson Dep. at 38:23-25.
4 SECTOR allows officers to auto-populate certain fields on PTCRs. Johnson
5 Dec. ¶¶ 3, 5.

6 In collecting Personal Information¹ for the PTCR, officers ask drivers
7 for their licenses, registrations, and insurance information and then ask if
8 the information on the registration and drivers' licenses is current. Morhous
9 Dep. at 65:15-21; McGee Dep. at 41:2-9; Cozzitorto Dec. ¶ 3. In situations
10 in which licenses and registrations show different addresses, officers will
11 ask drivers which one is current. Morhous Dep. at 73:19-74:7. If the
12 information on one is current, officers scan the barcode on a license or
13 registration and so long as the barcode is scannable, SECTOR auto-
14 populates the PTCR with information from those documents. Johnson Dep.
15 at 13:13-25; Morhous Dep. at 27:25-28:15; McGee Dep. at 42:18-43:8;
16 Cozzitorto Dec. ¶ 4. The DOL, which creates and owns the licenses and
17 the barcodes, considers the barcode information to be confidential. Weaver
18 Dep. at 100:10-25;² 125:1-5.

19 If the information is not current, officers are instructed to use a
20 drivers' updated street addresses and "[c]heck the 'new address' box [on
21

22 ¹ The DPPA defines "Personal Information" as "information that identifies an
23 individual, including an individual's photograph, social security number,
24 driver identification number, name, address (but not the 5-digit zip code),
25 telephone number, and medical or disability information, but does not
26 include information on vehicular accidents, driving violations, and driver's
status." 18 U.S.C. § 2725(3).

² The front of the license contains the same Personal Information as the bar
code. Johnson Dep. at 19:6-20:23; Weaver Dep. at 100:13-16.

1 the PTCR form] if the operator's address is different than what is listed on
2 their driver's license." Ex. 13 (PTCR Manual) at Plaintiff006943; see
3 Morhous Dep. at 24:1-4; 36:20-37:9; 118:5-10; McGee Dep. at 77:20-78:4.
4 Officers creating PTCRs on SECTOR cannot ignore the "new address" box;
5 they must either check the box, or elect to keep it unchecked, to advance in
6 the software and complete the report. Johnson Dep. at 106:7-107:1. If an
7 officer received personal information verbally from a motorist, the "new
8 address" box would be checked. McGee Dep. at 178:2-12.³ If the
9 information on a license is not current, an officer "may then manually type
10 the information from the driver's return into SECTOR to complete the police
11 traffic collision report." Ex. 12 (WSP's Interrog. Resp.) at No. 3; see
12 Morhous Dep. at 24:12-27:16; 28:5-11.

13 Officers investigating a collision request a "driver's return" or "driver's
14 check." Cozzitorto Dec. ¶ 5; Morhous Dep. at 66:13-21; McGee Dep. at
15 45:1-25. A driver's return provides officers with Personal Information
16 directly from Department of Licensing ("DOL") databases, including
17 motorists' names, addresses, dates of birth, and license status, among
18 other information. Weaver Dec. ¶ 4; Candee Dep. at 22:14-25; 23:16-
19 25:20.

23 ³ PTCRs can be identified by a report number beginning with "E" (if created
24 using SECTOR) or only numerals (if created on paper). Gibbs Dep. at
25 15:13-17:7. SECTOR keeps a record of whether a PTCR was created by
26 scanning barcodes versus manually typing information. Weaver Dep. at
101:10-102:12. Reports with numbers beginning with "M" or "C" are created
by citizens (those drivers are not included in the class). Gibbs Dep. at 16:6-
18.

1 **II. Defendants Purchased Thousands of Collision Reports**

2 Once officers complete their PTCRs, SECTOR transmits the PTCRs
3 to the Department of Transportation and to the WSP. Johnson Dep. at
4 37:9-38:2; Gibbs Dep. at 13:13-17. WSP's Collision Records Section
5 maintains all PTCRs for the State of Washington, regardless of whether
6 they were prepared by WSP troopers, or local law enforcement. Gibbs Dep.
7 at 8:9-16.

8 The WSP routinely sold PTCRs – containing drivers' names and
9 addresses – to anyone who wished to buy them. Using the WSP website
10 WRECR,⁴ requesters identified their involvement in a collision through a
11 dropdown box. Gibbs Dep. at 25:24-26:3; 28:4-20. Parties to the accidents,
12 their attorneys, and their insurers were "entitled parties" and could obtain
13 unredacted PTCRs. Gibbs Dec. ¶ 7. Anyone else were "non-entitled
14 parties" and could only obtain PTCRs with driver's license numbers and
15 dates of birth redacted. *Id.* ¶ 11; see RCW 46.52.080.⁵ There was no limit
16 to the number of PTCRs someone could buy.⁶

17 Standard procedure for selling PTCRs to Defendants was through the
18 "WRECR" website. Gibbs Dep. at 26:1-3. Defendants' employees had
19 usernames and passwords associated with one account, so they could
20 purchase records in bulk and received a monthly bill. Gibbs Dep. at 31:15-
21 18; 33:9-35:14; 67:18-69:15.

22
23
24 ⁴ WRECR stands for Washington Request for Electronic Collision Report.
Gibbs Dep. at 7:25-8:1.

25 ⁵ In April 2017, the WSP stopped redacting dates of birth from PTCRs sold
to non-entitled parties. Gibbs Dec. ¶ 11.

26 ⁶ While only 15 reports could be purchased in a request, purchasers could
make as many requests as they liked. Gibbs Dep. at 40:8-15.

Swapp employees would select the reports they wished to purchase, and then receive a confirmation email. Gibbs Dep. at 42:9-43:8; Ex. 14 (confirmation email to Swapp employee); see Ex. 11 (Swapp's Interrog. Resp.) at No. 5. Later, Defendants would receive an email containing a password-protected link from which they could download PTCRs. Gibbs Dep. at 46:15-48:8; Ex. 15 (transmittal email to Defendants' employee); Ex. 11 (Swapp's Interrog. Resp.) at No. 5.⁷ Between September 1, 2017 and June 23, 2017, Defendants purchased 10,555 reports, of which 8,835 were not then – and never became – clients of Swapp Law. Ex. 11 (Swapp's Interrog. Resp.) Nos. 2(a), (b) and (c).

III. Plaintiff's Two Car Accidents.

Plaintiff Jade Wilcox was involved in two car accidents. The first occurred August 1, 2015. Wilcox Dep. at 23:8-14; Ex. 16 (2015 PTCR). A Spokane Police officer asked Plaintiff for her driver's license, registration and proof of insurance, which she provided. Wilcox Dep. at 26:15-24. The officer asked if the information was current; she said the license address was not current, but the registration address was. *Id.* at 26:15-24.

The second accident occurred July 9, 2016. Wilcox Dep. at 40:17-41:16; Ex. 17 (2016 PTCR). After that accident, Plaintiff spoke to Spokane County Sheriff's Department officers and a WSP Trooper. Wilcox Dep. at 44:3-14; 56:21-57:9, 57:3-58:11, 60:8-61:4. She gave the officers her license and registration and showed proof of insurance. Wilcox Dep. at 44:16-25. An officer asked if the information on the documents was current, and Plaintiff said the registration address was current, but the license

⁷ Marissa Ibarra, the recipient of these emails, is a Swapp employee. Ex. 11 (Swapp Interrog. Resp.) at No. 1.

1 address was not. Wilcox Dep. at 45:1-3. The officer wrote “good” next to
2 the address on her DOL-issued registration. Wilcox Dep. at 44:21-45:6;
3 124:7-9.

4 Defendants bought PTCRs for both of Plaintiff’s accidents. Ex. 10
5 (Swapp’s Requests for Admission Resp.) at Requests No. 2-3. After her
6 2016 accident, Ms. Wilcox received a letter from Defendants offering their
7 legal services and stating they learned “from Washington public records”
8 that she was “involved in a serious accident on July 9.” Ex. 1 (Craig Swapp
9 & Assoc. Letter and Booklet). The letter also enclosed a booklet advertising
10 Defendants’ firm. *Id.* Ms. Wilcox considered the way “they got my address”
11 to be “an invasion of my privacy.” Wilcox Dep. at 94:19-24.

12 **ARGUMENT**

13 Class certification is appropriate where the moving party satisfies the
14 requirements of Rule 23(a) and at least one of the requirements of Rule
15 23(b). Fed. R. Civ. P. 23; *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591,
16 613-14 (1997). A court lacks discretion to deny class certification if Rule 23
17 is satisfied. *Shady Grove Orthopedic Assocs. v. Allstate Ins. Co.*, 559 U.S.
18 393, 398 (2010) (“By its terms [Rule 23] creates a categorical rule entitling
19 a plaintiff whose suit meets the specified criteria to pursue his claim as a
20 class action.”). “[W]hether class members could actually prevail on the
21 merits of their claims’ is not a proper inquiry in determining” whether the
22 class should be certified. *Stockwell v. City & County of San Francisco*, 749
23 F.3d 1107, 1112 (9th Cir. 2014). “[M]erits questions may be considered to
24 the extent—but only to the extent—that they are relevant to determining
25 whether the Rule 23 prerequisites for class certification are satisfied.”
26 *Amgen Inc. v. Connecticut Ret. Plans & Tr. Funds*, 568 U.S. 455, 466

(2013). Claims alleging violations of the DPPA are suitable for class certification. *E.g.*, *Pichler v. UNITE*, 228 F.R.D. 230 (E.D. Pa. 2005) (certifying class); *Haney v. Recall Ctr.*, 282 F.R.D. 436 (W.D. Ark. 2012) (certifying class).

I. The Class is Sufficiently and Properly Defined

“[A]t the certification stage, it [i]s sufficient that the class [i]s defined by an objective criterion.” *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121, 1124, 1125 n.4 (9th Cir. 2017). In *Briseno*, the Ninth Circuit rejected a requirement that there be an “administratively feasible way to identify class members.” beyond the class member’s self-identification. *Id.* at 1133. An objective class definition merely “avoid[s] subjective standards (e.g. a plaintiff’s state of mind) or terms that depend on resolution of the merits (e.g., persons who were discriminated against).” *Hernandez v. Cnty. of Monterey*, 305 F.R.D. 132, 152 (N.D. Cal. 2015). But a class definition based on “self-identified” “objective criteria is acceptable. *E.g.*, *Buchanan v. Tata Consultancy Servs., Ltd.*, No. 15-CV-01696-YGR, 2017 WL 6611653, at *21 (N.D. Cal. Dec. 27, 2017) (finding such a class is permissible after *Briseno*); *Erickson v. Elliot Bay Adjustment Co., Inc.*, C16-0391JLR, 2017 WL 1179435, at *11 (W.D. Wash. Mar. 29, 2017) (same).

Here, the class definition is objective because it is based on the following criteria: Is the person (1) a driver identified on a PTCR that Defendants obtained from the WSP between September 1, 2013 and June 23, 2017? (2) did the personal information originate from DOL record? and (3) Was the person not a client of Defendants or listed on the same PTCR as a client, not employed by Defendants, or the Court and did not provide written consents? These are all objective factors requiring no subjective

1 evaluation. In fact, members can be readily identified by reviewing PTCRs
2 obtained by Swapp, and records of the WSP⁸ identifying people listed on
3 PTCRs obtained by Defendants, between fixed dates to obtain the names
4 of non-client drivers. Thus, the class is sufficiently and properly defined.

5 **II. The Requirements of Rule 23(a) Are Satisfied.**

6 **A. Joinder of the Class is Impracticable**

7 Rule 23(a) requires that the class is so numerous that joinder is
8 impracticable. Fed. R. Civ. P. 23(a)(1). “In general ... a class consisting
9 of forty or more members is presumed to be sufficiently numerous.”
10 *Saucedo v. NW Mgmt. & Realty Servs., Inc.*, 290 F.R.D. 671, 676 (E.D.
11 Wash. 2013). Here, Defendants bought nearly 9,000 PTCRs about drivers
12 across Eastern Washington who were not clients between September 1,
13 2013 and June 23, 2017. Thus, Rule 23(a)(1) is readily satisfied.

14 **B. There are Common Questions of Law and Fact**

15 Commonality requires only *one* question of law or fact common to the
16 class. Fed. R. Civ. P. 23(a)(2); *Torres v. Mercer Canyons Inc.*, 835 F.3d
17 1125, 1133 (9th Cir. 2016) (“To satisfy Rule 23(a)(2) commonality, ‘[e]ven a
18 single [common] question’ will do.”). Not “every question in the case, or
19 even a preponderance of questions,” need to be “capable of classwide
20 resolution.” *Wang v. Chinese Daily News, Inc.*, 737 F.3d 538, 544 (9th Cir.
21 2013). Commonality “means that the class members’ claims ‘must depend
22 upon a common contention’ and that the ‘common contention, moreover,
23 must be of such a nature that it is capable of classwide resolution—which
24 means that determination of its truth or falsity will resolve an issue that is
25

26 ⁸ The WSP produced a spreadsheet listing PTCRs sold to Swapp. Gibbs
Dep. at 66:13-68:16.

1 central to the validity of each one of the claims in one stroke.” *Vaquero v.*
2 *Ashley Furniture Indus., Inc.*, 824 F.3d 1150, 1153 (9th Cir. 2016) (quoting
3 *Wal-Mart v. Dukes*, 564 U.S. 338, 350 (2011)).

4 In DPPA cases, questions about whether defendants violated the
5 DPPA and whether plaintiffs are entitled to damages satisfy commonality.
6 *Roberts v. Source for Pub. Data*, No. 2:08-CV-04167-NKL, 2009 WL
7 3837502, at *3 (W.D. Mo. Nov. 17, 2009) (certifying class in DPPA case).
8 *Haney*, 282 F.R.D. at 440 (same). Evidence that Defendants engaged in
9 “similar conduct” as to the Class, and a “pattern of activity raises common
10 issues of fact” as does “a common purpose.” *Pichler*, 228 F.R.D. at 249;
11 *Haney*, 282 F.R.D. at 440 (same). Plaintiff has identified common
12 questions, three of which address liability: (1) whether information on
13 PTCRs was derived from motor vehicle records, (2) whether Defendants’
14 knowingly obtained Class members’ Personal Information, and (3) whether
15 it was obtained for a permissible purpose.⁹ Compl. ¶ 5.3.

16 First, the question of whether Personal Information on PTCRs is
17 sourced in motor vehicle records can be answered on a classwide basis.
18 Officers typically create PTCRs either by scanning registrations and drivers
19 licenses with SECTOR, or if the barcode does not scan, by “manually
20 typ[ing] information from a drivers’ license into SECTOR....” Ex. 12 (WSP’s
21 Interrog. Responses) at p. 17. A driver’s Personal Information is entered
22 “exactly how it appears on their driver’s license.” Ex. 13 (PTCR Manual) at
23

24 ⁹ Affirmative answers to these questions satisfy the elements of the DPPA,
25 which imposes liability on defendants where they (1) knowingly obtain,
26 disclose or use (2) personal information (3) from a motor vehicle record (4)
unless for a specific purpose allowed under the DPPA. 18 U.S.C. § 2724(a).

1 Plaintiff006943. Not only is the information on the front of the license and
2 the barcode identical, but both are considered by the DOL to contain
3 confidential personal information. Weaver Dep. at 87:10-91:3; 100:14-16.
4 The same is true for the registration. Weaver Dep. at 55:21-56:11; 58:22-
5 60:15; 87:10-88:20; 116:5-117:20; 170:10-13. Thus, the issue for PTCRs
6 where personal information from a license or registration (whether from the
7 front or back) raise the same issue.

8 If a new address comes from another source, the officer is trained to
9 check the “new address” box. McGee Dep. at 178:2-12. If a driver lacks a
10 license or has an address different than listed on the license officers have
11 alternative means of populating the Personal Information fields. Ex. 12
12 (WSP’s Interrog. Resp.) at p. 17-18. Officers frequently draw information
13 from DOL databases, or other motor vehicle records. Cozzitorto Dec. ¶¶ 6-
14 6; Ex. 12 (WSP’s Interrog. Resp.) at p. 17-18; Morhous Dep. at 66:22-68:6;
15 see *also* Candee Dep. at 100:22-101:4. The information may come from a
16 vehicle registration, or from a driver’s check, all of which originate from a
17 DOL source. Morhous Dep. at 53:23-54:11; 55:11-56:13; 74:2-7; Ex. 12
18 (WSP’s Interrog. Resp.) at p. 17-18; Weaver Dep. at 99:13-20; 116:5-7.
19 And there are records as to whether the information was scanned from a
20 license or registration or whether a drivers’ check was utilized. Weaver
21 Dep. at 101:10-102:12. Candee Dep. at 93:19:94:1; 101:11-102:20.

22 Second, whether Defendants’ acted “knowingly” in buying PTCRs will
23 be the same as to all class members. The purchase of non-client PTCRs
24 was part of systematic practice whereby Defendants bought them in bulk.
25 Gibbs Dep. at 33:9-35:14; 31:15-18; Ex. 11 (Swapp’s Interrog. Resp.) at
26 No. 2, 5. Defendants themselves appear to intend to rely on “Craig

Swapp's understanding" about how "Accident Reports are prepared." Ex. 11 (Swapp Interrog. Resp.) at No. 7.

Finally, Defendants admittedly obtained PTCRs "for purposes of direct-mail marketing" between 2013 and 2017. Ex. 11 (Swapp Interrog. Resp.) at No. 5. Thus, this question can be resolved on a classwide basis, and probably on summary judgment as "an attorney's solicitation of clients is not a permissible purpose covered by the [18 U.S.C. § 2721](b)(4) litigation exception." *Maracich v. Spears*, 570 U.S. 48, 51 (2013).

Accordingly, the commonality requirement is satisfied.

C. Plaintiff's Claims Are Typical of those of the Class

Typicality requires that "the claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). "Under the rule's permissive standards, representative claims are 'typical' if they are reasonably coextensive with those of absent class members; they need not be substantially identical." *Parsons v. Ryan*, 754 F.3d 657, 685 (9th Cir. 2014). "The Ninth Circuit is clear that when a policy or practice is at issue that affects all class members, typicality exists." *Torres v. Mercer Canyons, Inc.*, No. 1:14-CV-03032-SAB, 2015 WL 1641519, at *5 (E.D. Wash. Apr. 8, 2015) (citing *Parsons*, 754 F.3d at 685 and *Armstrong v. Davis*, 275 F.3d 849, 868 (9th Cir. 2001)). "The test of typicality 'is whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct.'" *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992). "Defenses unique to a class representative counsel against

1 class certification *only where* they ‘threaten to become the focus of the
2 litigation.’” *Rodriguez v. Hayes*, 591 F.3d 1105, 1124 (9th Cir. 2009).

3 Here, Plaintiff’s claims are typical of the Class and there are no
4 unique defenses. Plaintiff claims that Defendants violated the DPPA by
5 buying PTCRs containing her Personal Information without her consent and
6 without a permissible purpose. Compl. ¶¶ 1.4, 4.24, 5.4. Indeed, Swapp
7 bought the PTCRs for the expressly *impermissible* purpose of law firm
8 marketing. See Ex. 11 (Swapp’s Interrog. Resp.) at No. 5 (describing
9 Defendants’ practices “for purposes of direct-mail marketing”) and Ex. 1
10 (Craig Swapp & Assoc. Letter and Booklet); see also *Maracich*, 570 U.S. at
11 52 (client solicitation not a permissible purpose under 18 U.S.C. §
12 2721(b)(4)). All Class members share this claim.

13 Defendants have asserted 14 affirmative defenses, but none appear
14 to be “unique” to the Plaintiff. ECF No. 41. Accordingly, the typicality
15 requirement is satisfied.

16 **D. Plaintiff Will Fairly and Adequately Represent the Class**

17 Adequacy under Rule 23(a)(4) involves two issues: “(1) Do the
18 representative plaintiffs and their counsel have any conflicts of interest with
19 other class members, and (2) will the representative plaintiffs and their
20 counsel prosecute the action vigorously on behalf of the class?” *Staton v.*
21 *Boeing Co.*, 327 F.3d 938, 957 (9th Cir. 2003). Plaintiff and her counsel
22 meet both requirements.

23 **1. There Are No Conflicts Among the Class**

24 There is no conflict where the class is “not divided into conflicting
25 discrete categories” and where “each potential plaintiff has the same
26 problem.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1021 (9th Cir. 1998);

1 see *Orvis v. Spokane Cty.*, 281 F.R.D. 469, 474 (E.D. Wash. 2012)
2 (Peterson, J.) (finding no conflict where plaintiff “and all the members of the
3 proposed class are exclusively interested in protecting their constitutional
4 rights from alleged unlawful loss of their liberty...”).

5 Here, there is only one potential category of class members, and
6 Plaintiff has the same problem as each potential class member –
7 Defendants acquired PTCRs containing their Personal Information without
8 their consent or a permissible purpose.

9 **2. Plaintiff Will Vigorously Represent the Class**

10 In the Ninth Circuit, “[t]he threshold of knowledge required to qualify
11 a class representative is low; a party must be familiar with the basic
12 elements of her claim, and will be deemed inadequate only if she is
13 ‘startlingly unfamiliar’ with the case.” *Moeller v. Taco Bell Corp.*, 220 F.R.D.
14 604, 611 (N.D. Cal. 2004) (citations omitted) *amended in part*, 2012 WL
15 3070863 (N.D. Cal. July 26, 2012). “[D]istrict courts in this circuit have
16 repeatedly stressed the relatively low level of familiarity
17 a representative plaintiff must have to be meet the Rule 23 adequacy
18 requirement.” *Allen v. Hyland's Inc.*, 300 F.R.D. 643, 663 (C.D. Cal. 2014)
19 (finding plaintiffs adequate where they “have made themselves available for
20 depositions and demonstrated familiarity with the case.”).

21 Here, Ms. Wilcox has been deposed here and in the related matter,
22 *Wilcox v. Batiste*, 17-cv-00122-RMP (E.D. Wash.) and she has
23 demonstrated her familiarity with the case and willingness to prosecute the
24 claims of the Class. *E.g.*, Declaration of Jade Wilcox ¶¶ 7-13; Wilcox Dep.
25 at 52:1-53:8.

1 **3. Plaintiff's Counsel are More Than Adequate.**

2 “The adequacy of counsel is considered under Rule 23(a)(4) and
3 Rule 23(g).” *Allen*, 300 F.R.D. at 664 (citing *Baumann v. Chase Inv. Servs.*
4 *Corp.*, 747 F.3d 1117, 1122–23 (9th Cir. 2014)). Rule 23(g) factors include
5 “(i) the work counsel has done in identifying or investigating potential claims
6 in the action; (ii) counsel's experience in handling class actions, other
7 complex litigation, and the types of claims asserted in the action; (iii)
8 counsel's knowledge of the applicable law; and (iv) the resources that
9 counsel will commit to representing the class.” Fed. R. Civ. P. 23(g)(1)(A).

10 Here, Plaintiff's counsel has investigated and identified the claims
11 from their inception. Plaintiff's counsel, specifically Thomas Jarrard and the
12 Sweetser Law Firm investigated the related claims in *Batiste* and also
13 obtained a preliminary injunction. See ECF No. 1, 14 in *Batiste*.

14 Both of Plaintiffs' proposed Co-Lead Class Counsel, Thomas Jarrard
15 and Block & Leviton are experienced in complex litigation and class action
16 cases. Block & Leviton and its attorneys have been appointed lead or co-
17 lead counsel in numerous high-profile and complex class-action cases.
18 Barton Decl. ¶ 2. Both Block & Leviton partners on this case, Joseph
19 Barton and Jason Leviton, are AV-rated by Martindale Hubbell and are
20 recognized as Super Lawyers. *Id.* ¶ 2. Mr. Barton has successfully tried
21 class action and other large complex actions. *Id.* ¶ 4-5. And Block & Leviton
22 attorneys have successfully certified and settled numerous class cases. *Id.*
23 Mr. Jarrard has significant experience litigating class action and other
24 complex matters in federal court. Jarrard Decl. ¶ 2. Mr. Jarrard is also AV-
25 rated by Martindale-Hubbell and has been selected a “Rising Star” by
26 Super Lawyers. Jarrard Decl. ¶ 4.

1 Plaintiff's counsel has demonstrated familiarity with the DPPA by
2 drafting a Complaint that withstood a motion to dismiss. ECF No. 21.

3 Finally, Plaintiff's counsel have devoted substantial resources to this
4 case already. For example, they have deposed the WSP (which produced
5 four separate witnesses deposed over two days); the Washington State
6 Criminal Justice Training Commission, the Washington Department of
7 Licensing and the Spokane Police Department, collected and reviewed
8 thousands of pages of documents from Defendants and non-parties, and
9 also filed two Motions to Compel. Kirchofer Decl. ¶¶ 2-7, 17. These efforts
10 have required the devotion of substantial resources, and demonstrate the
11 vigor of Plaintiff's counsel. Accordingly, the adequacy requirement is
12 satisfied.

13 **III. The Requirements of Rule 23(b)(3) Are Satisfied.**

14 **A. The Predominance Requirement is Met.**

15 Rule 23(b)(3) requires that "common questions predominate over any
16 questions affecting only individual members." Predominance "asks whether
17 the common, aggregation-enabling, issues in the case are more prevalent
18 or important than the non-common, aggregation-defeating, individual
19 issues." *Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036, 1045 (2016).
20 When the common questions "present a *significant aspect* of the case and .
21 . . can be resolved for all members of the class in a single adjudication,"
22 predominance is met. *Hanlon*, 150 F.3d at 1022 (emphasis added). When
23 "[a] common nucleus of facts and potential legal remedies dominates th[e]
24 litigation," common issues predominate. *Id.*; see *Just Film, Inc. v. Buono*,
25 847 F.3d 1108, 1120 (9th Cir. 2017) (finding predominance where claims
26 "arise from a course of conduct that impacted the class"). Predominance

1 “does *not* require a plaintiff seeking class certification to prove that each
2 ‘elemen[t] of [her] claim [is] susceptible to classwide proof.’” *Amgen*, 568
3 U.S. at 469. The “text of Rule 23(b)(3) itself contemplates that [] individual
4 questions will be present.” *Messner v. Northshore U. HealthSystem*, 669
5 F.3d 802, 815 (7th Cir. 2012); *Tyson Foods*, 136 S. Ct. at 1045 (explaining
6 other “important” individual issues “will have to be tried separately”).¹⁰ Here,
7 the common issues will also predominate. *Supra* Argmt. II.B.

8 The first question, whether and what Personal Information was
9 sourced in “motor vehicle records,” and the third question, whether there
10 was a permissible purpose, are likely questions (given the evidence) that
11 may be resolved on summary judgment at the completion of discovery. If
12 so, these issues may turn on legal issues. A “legal question that is of
13 central importance” supports predominance. *Connor v. Automated*
14 *Accounts, Inc.*, 202 F.R.D. 265, 271 (E.D. Wash. 2001); see *Cabiness v.*
15 *Educ. Fin. Sols., LLC*, 16-CV-01109-JST, 2018 WL 3108991, at *3 (N.D.
16 Cal. June 25, 2018) (finding predominance based on dominant legal
17 issue”); *Moore v. Ulta Salon, Cosmetics & Fragrance, Inc.*, 311 F.R.D. 590,
18 621 (C.D. Cal. 2015) (finding predominance based on resolving “the

19 ¹⁰ “[A] party seeking class certification is not required to show that the legal
20 and factual issues raised by the claims of each class member are
21 identical”. *Kamar v. Radio Shack Corp.*, 254 F.R.D. 387, 399 (C.D. Cal.
22 2008), *aff'd*, 375 F. App'x 734 (9th Cir. 2010). “[T]he existence of certain
23 individualized or deviating facts will not preclude certification if most class
24 members were subjected to a ... policy in a way that gives rise to
25 consistent liability or lack thereof.” *Id.*; *Sandoval v. Rizzuti Farms, Ltd.*, CV-
26 07-3076-EFS, 2008 WL 4530525, at *5 (E.D. Wash. Oct. 6, 2008) (finding
“individual issues may arise” and “each class members' claims need not
be identical”); *Kurihara v. Best Buy Co., Inc.*, No. C 06-01884 MHP, 2007
WL 2501698, *9–10 (N.D. Cal. 2007) (finding predominance even where in
practice there are deviations from the policy));

1 overarching legal question at the core of plaintiff's case" -- whether
2 defendants' policy as applied resulted in a violation of the law).

3 Moreover, here, officers create PTCRs following a standardized
4 procedure in which they scan the barcodes on a motorists' license and
5 registration to populate the relevant Personal Information fields (e.g., name
6 and address) on the PTCR. *Supra* Backgd. I, Argmt. II.B. This procedure
7 populates the PTCR with Personal Information from the DOL-created
8 barcode. *Supra* Backgd. I. Even where officers manually type information
9 from the DOL-created registration or licenses into SECTOR, it is the same
10 Personal Information also found in the barcode, all of which is considered
11 confidential by the DOL. *Supra* Backgd. I.¹¹ The same is true in the small
12 minority of situations¹² where officers utilize some alternative means of
13 collecting Personal Information (e.g. obtaining driver's return from a DOL
14 database). *Id.*

15 There is no evidence that the PTCR for any Class Member was
16 prepared using an address or other Personal Information different than
17 what was on both their license and registration (or in the DOL data). And
18 "Defendants' speculation ... is not sufficient to defeat class certification."
19 *Agne v. Papa John's Int'l, Inc.*, 286 F.R.D. 559, 567 (W.D. Wash. 2012).

21 ¹¹ They are still obtaining the Personal Information from a "motor vehicle
22 record," which means "any record that pertains to a motor vehicle
23 operator's permit, motor vehicle title, motor vehicle registration, or
24 identification card issued by a department of motor vehicles." 18 U.S.C. §
25 2725(1).

26 ¹² Such situations are found in fewer than 10 percent of PTCRs, based on
the presence of checked "new address" boxes in a review of the first 130
reports received from Defendants. A review of PTCRs in the Bates range
See Kirchofer Decl. ¶ 17.

1 Even if Defendants are able to find some such evidence, “[t]hat the
2 defendant might attempt to pick off the occasional class member here or
3 there through individualized rebuttal does not cause individual questions to
4 predominate.” *Halliburton Co. v. Erica P. John Fund, Inc.*, 134 S. Ct. 2398,
5 2412 (2014) (finding predominance met). “[T]he presence of certain ‘non-
6 injured’ individuals” in a class does not defeat predominance. *Torres*, 835
7 F.3d at 1136 (affirming class certification). Likewise, the mere fact that a
8 decision on the merits of a claim “may affect different class members
9 differently does not compel a finding that individual issues predominate
10 over common ones.” *Waste Mgmt. Holdings, Inc. v. Mowbray*, 208 F.3d
11 288, 295–97 (1st Cir. 2000) (same).

12 The second question, whether Defendants obtained Personal
13 Information knowingly will also be based on common proof and a standard
14 practice as the evidence will focus entirely on Defendants’ conduct and not
15 individual class members. *Supra* Argmt. II.B.

16 Accordingly, issues of law and fact common to all class members
17 predominate over issues that may only affect individual members.¹³

18 **B. The Superiority Requirement is Met**

19 Rule 23(b)(3) requires that a class action be “superior to other
20 available methods for fairly and efficiently adjudicating the controversy.”
21 Superiority “requires the court to determine whether maintenance of this
22 litigation as a class action is efficient and whether it is fair.” *Wolin v. Jaguar*
23 *Land Rover N.A., LLC*, 617 F.3d 1168, 1175–76 (9th Cir. 2010). Among the
24 factors to consider are the following:

25
26 ¹³ The existence of statutory liquidated damages means there are no
individualized determinations. *Roberts*, 2009 WL 3837502, at *6.
PLAINTIFF’S MOTION FOR CLASS CERTIFICATION- 18

1 (A) the class members' interest in individually controlling the
2 prosecution or defense of separate actions; (B) the extent and
3 nature of any litigation concerning the controversy already
4 begun by or against class members; (C) the desirability or
5 undesirability of concentrating the litigation of the claims in the
6 particular forum; and (D) the likely difficulties in managing of a
7 class action.

8 Fed. R. Civ. P. 23(b)(3).

9 The first factor is met "[w]here recovery on an individual basis would
10 be dwarfed by the cost of litigating on an individual basis." *Wolin*, 617 F.3d
11 at 1175. Here, the likely recovery per class member is \$2500 in statutory
12 liquidated damages, an amount too small to efficiently litigate individually.¹⁴
13 Second, there is no other DPPA litigation against Defendants. Third, most
14 Class members will be in Eastern Washington because Defendants bought
15 PTCRs for accidents "that occurred in Eastern Washington." Ex. 11
16 (Swapp's Interrog. Resp.) at No. 5. Swapp also has an office in Spokane.
17 Complaint and Answer, ¶¶ 2.2. Finally, there is a "well-settled presumption
18 that courts should not refuse to certify a class merely on the basis of
19 manageability concerns." *Briseno*, 844 F.3d at 1128 (citing *Mullins v. Direct*
20 *Digital, LLC*, 795 F.3d 654, 663 (7th Cir. 2015) and *In re Visa*
21 *Check/MasterMoney Antitrust Litig.*, 280 F.3d 124, 140 (2d Cir. 2001)
22 (Sotomayor, J.) (listing management tools)). Nothing suggests that there is
23 anything so complex that would make individual actions preferable or that
24 trying the case as a class action would create any additional issues for trial.
25 Thus, a class action is a superior method of resolving the Class' claims.

26 ¹⁴ Courts have repeatedly concluded that the mere possibility of statutory
damages of a few thousand dollars is insufficient incentive to litigate
individually. *E.g.* Erickson, 2017 WL 1179435, at *11 (citing cases).
PLAINTIFF'S MOTION FOR CLASS CERTIFICATION- 19

CONCLUSION

For the foregoing reasons, Plaintiff's motion to certify the Class under Fed. R. Civ. P. 23(a) and (b)(3) should be granted.

Dated: August 7, 2018

Respectfully submitted,

/s/Thomas G. Jarrard

Thomas G. Jarrard

The Law Office of Thomas G. Jarrard, PLLC

1020 N. Washington

Spokane, WA 99201

Telephone: (425) 239-7290

Email: tjarrard@att.net

Jason Leviton

Thomas W. Kirchofer

Block & Leviton LLP

155 Federal Street, Suite 400

Boston MA 02110

Telephone: 617-398-5660

Email: jason@blockesq.com

Email: tom@blockesq.com

R. Joseph Barton

Block & Leviton LLP

1735 20th Street, N.W.

Washington D.C. 20009

Telephone: 202-734-7046

Email: jbarton@blockesq.com

James R. Sweetser
Marcus Sweetser
Sweetser Law Office
1020 N. Washington St.
Spokane WA 99201
Telephone: 509-328-0678
Email: jsweets@sweetserlawoffice.com
Email: marcussweetser@gmail.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2018 I caused to be filed electronically a true copy of the foregoing document using the CM/ECF system which effected service of the same upon all counsel of record.

/s/ Thomas G. Jarrard

Thomas G. Jarrard